

ASSEMBLY BILL

No. 2230

Introduced by Assembly Member La Malfa

February 20, 2008

An act to amend Section 711.4 of the Fish and Game Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 2230, as introduced, La Malfa. California Environmental Quality Act: filing fees and exemptions.

The California Environmental Quality Act (CEQA) declares legislative intent that all agencies of state government which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, give consideration to preventing environmental damage when regulating those activities. CEQA requires all lead agencies, as defined, to prepare an environmental impact report for any project which may have a significant effect on the environment. Existing law requires all project applicants and public agencies subject to CEQA to pay the filing fee for each proposed project, unless the project has no effect on fish or wildlife, the project is being undertaken by the department, or the project costs are payable to the department from specified sources. Existing law requires the Department of Fish and Game to impose and collect these filing fees, in prescribed amounts, to defray the costs of managing and protecting fish and wildlife trust resources.

This bill would revise those exemptions from the payment of the filing fee to instead exempt a project that the lead agency has determined will have no effect on fish and wildlife, and also exempt from the

payment of filing fee a project being undertaken by a public agency or the department.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 711.4 of the Fish and Game Code is
2 amended to read:

3 711.4. (a) The department shall impose and collect a filing fee
4 in the amount prescribed in subdivision (d) to defray the costs of
5 managing and protecting fish and wildlife trust resources,
6 including, but not limited to, consulting with other public agencies,
7 reviewing environmental documents, recommending mitigation
8 measures, developing monitoring requirements for purposes of the
9 California Environmental Quality Act (Division 13 (commencing
10 with Section 21000) of the Public Resources Code), consulting
11 pursuant to Section 21104.2 of the Public Resources Code, and
12 other activities protecting those trust resources identified in the
13 review pursuant to the California Environmental Quality Act.

14 (b) The filing fees shall be proportional to the cost incurred by
15 the department and shall be annually reviewed and adjustments
16 recommended to the Legislature in an amount necessary to pay
17 the full costs of department programs as specified. The department
18 shall annually adjust the fees pursuant to Section 713.

19 (c) (1) All project applicants and public agencies subject to the
20 California Environmental Quality Act shall pay a filing fee for
21 each proposed project, as specified in subdivision (d).

22 (2) Notwithstanding paragraph (1), a filing fee shall not be paid
23 pursuant to this section if any of the following conditions exist:

24 (A) *The lead agency, as defined in Section 21067 of the Public*
25 *Resources Code, determines that the project has no effect on fish*
26 *and wildlife.*

27 (B) *The project is being undertaken by a public agency or the*
28 *department.*

29 (C) The project costs are payable by the department from any
30 of the following sources that are held by the department:

31 (i) The Public Resources Account in the Cigarette and Tobacco
32 Products Surtax Fund.

1 (ii) The California Wildlife, Coastal, and Park Land
2 Conservation Fund of 1988.

3 (iii) The Habitat Conservation Fund.

4 (iv) The Fisheries Restoration Account in the Fish and Game
5 Preservation Fund.

6 (v) The Commercial Salmon Stamp Account in the Fish and
7 Game Preservation Fund.

8 (vi) Striped bass stamp funds collected pursuant to Section 7360.

9 (vii) The California Ocean Resource Enhancement Account.

10 (D) The project is implemented by the department through a
11 contract with either a nonprofit entity or a local government
12 agency.

13 (3) Filing fees shall be paid at the time and in the amount
14 specified in subdivision (d). Notwithstanding Sections 21080.5
15 and 21081 of the Public Resources Code, a project shall not be
16 operative, vested, or final, and local government permits for the
17 project shall not be valid, until the filing fees required pursuant to
18 this section are paid.

19 (d) The fees shall be in the following amounts:

20 (1) For a project that is statutorily or categorically exempt from
21 the California Environmental Quality Act, including those certified
22 regulatory programs that incorporate statutory and categorical
23 exemptions, a filing fee shall not be paid.

24 (2) For a project for which a negative declaration is prepared
25 pursuant to subdivision (c) of Section 21080 of the Public
26 Resources Code, the filing fee is one thousand eight hundred
27 dollars (\$1,800). A local agency collecting the filing fee shall remit
28 the fee to the county clerk at the time of filing a notice of
29 determination pursuant to Section 21152 of the Public Resources
30 Code. A state agency collecting the filing fee shall remit the fee
31 to the Office of Planning and Research at the time of filing a notice
32 of determination pursuant to Section 21108 of the Public Resources
33 Code.

34 (3) For a project with an environmental impact report prepared
35 pursuant to the California Environmental Quality Act, the filing
36 fee is two thousand five hundred dollars (\$2,500). A local agency
37 collecting the filing fee shall remit the fee to the county clerk at
38 the time of filing a notice of determination pursuant to Section
39 21152 of the Public Resources Code. A state agency collecting
40 the filing fee shall remit the fee to the Office of Planning and

1 Research at the time of filing a notice of determination pursuant
2 to Section 21108 of the Public Resources Code.

3 (4) For a project that is subject to a certified regulatory program
4 pursuant to Section 21080.5 of the Public Resources Code, the
5 filing fee is eight hundred fifty dollars (\$850). The filing fee shall
6 be paid to the department before the filing of the notice of
7 determination pursuant to Section 21080.5 of the Public Resources
8 Code.

9 (e) The county clerk may charge a documentary handling fee
10 of fifty dollars (\$50) per filing in addition to the filing fee specified
11 in subdivision (d).

12 (1) The county clerk of each county and the Office of Planning
13 and Research shall maintain a record, both electronic and in paper,
14 of all environmental documents received. The record shall include,
15 for each environmental document received, the name of each
16 applicant or lead agency, the document filing number, the project
17 name as approved by the lead agency, and the filing date. The
18 record shall be made available for examination or audit by
19 authorized personnel of the department during normal business
20 hours.

21 (2) The filing fee imposed and collected pursuant to subdivision
22 (d) shall be remitted monthly to the department within 30 days
23 after the end of each month. The remittance shall be accompanied
24 with the information required pursuant to paragraph (1). The
25 amount of fees due shall be reported on forms prescribed and
26 provided by the department.

27 (3) The department shall assess a penalty of 10 percent of the
28 amount of fees due for a failure to remit the amount payable when
29 due. The department may pursue collection of delinquent fees
30 through the Controller's office pursuant to Section 12419.5 of the
31 Government Code.

32 (f) Notwithstanding Section 12000, failure to pay the fee under
33 subdivision (d) is not a misdemeanor. All unpaid fees are a
34 statutory assessment subject to collection under procedures as
35 provided in the Revenue and Taxation Code.

36 (g) Only one filing fee shall be paid for each project unless the
37 project is tiered or phased, or separate environmental documents
38 are required.

1 (h) This section does not preclude or modify the duty of the
2 department to recommend, require, permit, or engage in mitigation
3 activities pursuant to the California Environmental Quality Act.

4 (i) The permit process of the California Coastal Commission,
5 as certified by the Secretary of the Resources Agency, is exempt
6 from the payment of the filing fees prescribed by paragraph (4) of
7 subdivision (d) insofar as the permits are issued under any of the
8 following regulations:

9 (1) Subchapter 4 (commencing with Section 13136) of Chapter
10 5 of Division 5.5 of Title 14 of the California Code of Regulations.

11 (2) Subchapter 1 (commencing with Section 13200), Subchapter
12 3 (commencing with Section 13213), Subchapter 3.5 (commencing
13 with Section 13214), Subchapter 4 (commencing with Section
14 13215), Subchapter 4.5 (commencing with Section 13238),
15 Subchapter 5 (commencing with Section 13240), Subchapter 6
16 (commencing with Section 13250), and Subchapter 8 (commencing
17 with Section 13255.0) of Chapter 6 of Division 5.5 of Title 14 of
18 the California Code of Regulations.